

TOWN OF HARWICH



BOARD OF HEALTH

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Town of Harwich Board of Health Tuesday, February 9, 2016-6:30 PM TOWN HALL – SMALL HEARING ROOM MINUTES

BOARD OF HEALTH MEMBERS PRESENT: Members Pamela Howell, R.N., Frank Boyle & Cynthia Bayerl

ABSENT: Dr. Robert Insley

STAFF MEMBERS PRESENT: Health Director Paula Champagne, Senior Health Inspector Meggan Tierney & Administrative Assistant Jennifer Clarke

OTHERS PRESENT: Mark Smith, Rich Connolly, Ezra Ambrose, Don Bracken, Tom McLellan, Dan Croteau, Roy Simmons & Dan Speakman.

I REORGANIZATION OF THE BOARD- To appoint a temporary chair.

Frank Boyle made a motion to open the meeting & vote for a temporary Chair for the February 9, 2016 Board of Health meeting. Mr. Boyle nominated Pamela Howell, R.N. as temporary chair. Ms. Bayerl seconded the motion. 3-0-0 Unanimous

II EXECUTIVE SESSION

At 6:32 p.m. Frank Boyle made a motion to enter into executive session to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the Board of Health for **Walsh Brothers Building Company, 5 Sea Street Ext.**

III CALL TO ORDER

At 6:48 p.m., Chairman Pamela Howell called the meeting to order.

IV MINUTES OF PREVIOUS MEETING – 1/12/2016

Motion made by Mr. Boyle, seconded by Ms. Bayerl to accept the minutes of the 1/12/2016 Board of Health meeting. 3-0-0 Unanimous.

V 6:30-7:00 PM - BOARD OF HEALTH WORK SESSION

A. Discussion-Review information and suggested regulation regarding synthetic cannabinoids

Senior Health Inspector Meggan Tierney has created a proclamation regarding the sale, use or distribution of synthetic cannabinoids. Health Director Champagne feels that this is a good starting point as a public statement and she hopes to speak with the Harwich Police Chief regarding our statement and possible community education. The Health Department website has been updated to include educational information and links regarding synthetic cannabinoids.

Motion made by Frank Boyle, seconded by Ms. Bayerl to accept the proclamation dated 2/9/2016. 3-0-0 Unanimous

B. Discussion- January 14, 2016 Town Counsel seminar regarding tips for effective Board meetings.

Informal discussion regarding the points expressed at the seminar. All felt that the BOH has already incorporated many of the tips presented with the exception of the room layout. The Board of Health has done its best to follow Robert's Rules of Order. Town Counsel discussed maintaining a distance between the Board and applicants at the meetings. The small hearing room has been re-arranged to provide a separate seating area for the applicants, as well as an easel to allow the public to view the plans being discussed. The minutes of the Board of Health meeting minutes will now include a roll call with the vote.

VI 7:00 PM - OLD/UNFINISHED BUSINESS

A. Hearing-Adams, 18 Ocean Avenue, to reconsider Order of Conditions dated 1/30/1996-no increase of square footage to the dwelling prepared by Moran Engineering Associates LLC-proposed to demolish existing dwelling and re-build with a larger building (Continued from 1/12/16)

Chairman Howell opened the hearing. Dan Croteau from Moran Engineering & Ezra Ambrose from Ambrose Homes were present. At the last meeting, there were some issues regarding the foundation and occupancy of the dwelling. The foundation has been reduced by 2' with a cantilever to avoid additional septic tank setback variances. Two bedrooms will have less than 100 sq. ft. and will allow for a single occupancy per bedroom. The third bedroom will be greater than 100 sq. ft. and allow for double occupancy. The revised plan indicates the square footage of the bedrooms and the change of the foundation. Chairman Howell closed the hearing.

Health Director Champagne said that since the previous meeting, the applicant has been able to settle the concerns of the Board. She recommended that the Board favorably consider the request to reconsider Order of Conditions dated 1/30/1996-no increase of square footage to the dwelling, and approve the Moran Engineering Associates LLC plan dated 2/3/2016, Ambrose Homes plan dated 1/20/2016 and Ambrose Homes foundation plan dated 2/6/2016 with the following conditions:

1. The dwelling shall be restricted to a total of 3 bedrooms. No increase in flow, number of bedrooms or square footage.
2. Due to the size of the rooms, the occupancy will be restricted as follows: Bedroom # 1 (90 sq. ft.) and bedroom # 2 (95 sq. ft.)-single occupancy and bedroom # 3 (187 sq. ft.)-double occupancy. Chapter II of the State Sanitary Code requires a minimum of 70 sq. ft. to be considered a bedroom and 100 sq. ft. for double occupancy.
3. Record deed restriction and floor plan as "margin referenced" and return a copy to the Health Department.
4. Variance request granted to move the 1500 gallon septic tank 7" to accommodate a correction in the lot line identification. The new foundation must maintain the 1996 setback approval of 2.5'. Dwelling will be cantilevered to achieve this setback.

Mr. Boyle moved to accept the recommendation of the Health Director to approve the reconsideration in accordance with the revised plans. Ms. Bayerl seconded the motion. 3-0-0 Unanimous

B. Hearing-Tarek, 413 Route 28, additional variance for previously approved plan to consider a request to replace a sewage disposal system prepared by Dan A. Speakman Construction

Variances from 310 CMR 15.211(1) Minimum Setback Distances:

1. Per 310 CMR 15.227(5): To reduce septic tank inverts to 1” of adjusted high groundwater

Chairman Howell opened the hearing. Dan Speakman from Speakman Excavating was present. This project has previously approved variances and this additional variance was noted during the office level review of the septic application and plans. Title 5 allows for a variance down to 1” of adjusted high groundwater, which is what is being requested. Chairman Howell closed the hearing.

Health Director Champagne recommended that the Board favorably consider approval of the variance and that it be added to the list of previously approved variances dated 11/17/2015.

Mr. Boyle moved to accept the recommendation of the Health Director to approve the variance request. Ms. Bayerl seconded the motion. 3-0-0 Unanimous

VII NEW BUSINESS

A. Hearing-Environmental Impact Report, 1369 Orleans Road, Mark Smith (Applicant), to demonstrate compliance with Harwich Board of Health Regulation 1.211; Environmental Assessment; prepared by Bracken Engineering Inc. “The Preserve” will be an 8 lot residential subdivision located in a nitrogen sensitive area with >2000 GPD wastewater flow.

Chairman Howell opened the hearing. Don Bracken from Bracken Engineering & Mark Smith were present. In accordance with local Board of Health Regulation 1.211, a shared system is required that provides nitrogen removal technology. The site consists of a total of 9.52 acres (414,596 sf.) of vacant land located south of Orleans-Harwich Road in Harwich, MA. The proposed subdivision consists of eight (8) four (4) bedroom dwellings located in a Nitrogen Sensitive Area and the watershed for the Pleasant Bay Estuary.

The total design flow per Title 5 is 3,520 gallons per day based on a total of 32 bedrooms at 110 gallons per day. Town water will be utilized. Each dwelling will have a 1500 gallon septic tank and pre-packaged low pressure grinder pump system connecting to a lower pressure force main in the subdivision road. The force main discharges into a Secondary Treatment System (STS) consisting of an AdvanTex AX100 which discharges into a soil absorption system (SAS) consisting of a Presby Enviro-Septic wastewater treatment system. The groundwater flow in a southeasterly direction towards Muddy Creek. The total travel distance between the SAS to Muddy Creek is 4,600’. The SAS is located outside of the 10 year time of travel. Groundwater mounding calculations that were performed below the SAS indicate a mounding of approximately 1.1’ resulting in a minimum groundwater separation of approximately 34’. Nitrogen loading calculations were completed based on the Cape Cod Commission’s Technical Bulletin 91-001, April 1992. The STS is expected to obtain an effluent nitrogen load of 25 mg/L. The final total nitrogen calculation is 4.90 ppm, thereby below the target of 5 ppm as widely established on Cape Cod as a minimum standard. This report does not attempt to measure the exact impact of the phosphorous from the SAS, however, given the flow path direction and soil attenuation the phosphorous impact would be negligible on the Minister’s Pond.

The proposed sewage disposal system is located as far as possible from local ponds, municipal water supplies and the Pleasant Bay estuary. The proposed secondary treatment system and soil absorption system have been designed to treat the effluent and meet the total nitrogen standard of less than 5 ppm. The soil absorption system location maximizes the attenuation of the phosphorous in the soil. A significant percentage of nitrogen will be removed with the proposed system over a conventional system and the system as designed will not create a negative environmental impact.

The following documents are entered into the record as part of the presentation:

- Bracken Engineering, Donald Bracken, PE, letter to Harwich Board of Health, 1/20/2016, Re: request to hear Reg. 1.211 Environmental Impact Review-1369 Orleans Road.

- Hydro-Geologic Report prepared for “The Preserve”, Shared Sewage Disposal System, Prepared for Orleans Road Realty LLC, Bracken Engineering, Inc, 1/20/2016
- Orenco Systems Inc, Jesten Brenner, PE, letter to Ryan Maxwell, Bracken Engineering, 1/19/2016, Subject: Design review of 1369 Orleans Road
- Orenco, Advantex O&M Manual, Start-up and Maintenance of Advantex AX100 & AX20 Commercial Wastewater Treatment Systems, Rev. 2.1, 05/15
- Residential Nitrogen Loading Calculations (no secondary treatment) 1 page document, 1/20/2016
- Bracken Engineering, “Proposed Subsurface Sewage Disposal Plan prepared for Orleans Road Realty Trust, LLC” 1369 Orleans Road, 1/18/2016, sheet 1-3

After considerable review and discussion it was a unanimous decision of the Board to accept the proposal and the accompanying documents as meeting compliance with Regulation 1.211 with the following order of conditions:

The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations. It is further understood that this approval is only for the Environmental Impact Review.

Health Director Champagne said that this project has been reviewed at staff level and that the applicant has chosen to break the application process into stages due to the complexity and history. She recommends that the Board favorably consider the 8 lot subdivision with the plan dated 1/18/2016 prepared by Bracken Engineering Inc., with the following condition:

The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations.

Mr. Boyle moved to accept the recommendation of the Health Director to approve the environmental impact report plan dated 1/18/2016. Ms. Bayerl seconded the motion. 3-0-0 Unanimous

B. Hearing-105 CMR 15.216-Aggregate determination of flows and nitrogen loading, to consider the use of an aggregate facility plan for the purpose of meeting 105 CMR 15.214-216 regarding 10,000 sq. ft. of land required per bedroom in a nitrogen sensitive area located at **6 Glen Road**; Map 44 Parcel E6; 15,786 sq. ft.; credit land at 297 Depot Street; easement “B”, 14,243 sq. ft. for 3 Guys LLC, plan prepared by Bass River Engineering.

Chairman Howell opened the hearing. Tom McLellan from Bass River Engineering was present. Roy Simmons was present in the audience. This lot is located in a water recharge area (zone II) and does not have the required square footage to construct a three bedroom dwelling. In order for them to meet the 30,000 sq. ft. lot requirement, the applicant is buying development rights from the property located at 297 Depot Street. The existing lot at 6 Glen Road is 15,786 sq. ft. and the purchased land to be applied is for 14,243 sq. ft. Chairman Howell closed the hearing.

Health Director Champagne gave a synopsis of the request. She explained that the property that the land is coming from has to be within the same zone of contribution. The easement must maintain its natural state for nitrogen purposes. In the past, when the Board of Health has reviewed these requests, they have required that corner bounds be placed on the easement so that if any portion of the lot is to be developed, it is clear what shall remain in a natural state.

Richard Connelly from 5 Glen Road was present and asked for clarification of the easement. Tom McLellan said that the easement property is about 1 mile up the road. The sewage disposal system will be underground and no run off will go towards Mr. Connelly’s property. Mr. McLellan explained the process of the application.

Health Director Champagne recommended that the Board favorably approve the nitrogen loading aggregation plan with the following conditions:

1. Corner bounds will be placed on credit land for clarification of the no disturb lines.

2. The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations.

Mr. Boyle moved to accept the recommendation of the Health Director to approve the nitrogen loading aggregation plan. Ms. Bayerl seconded the motion. 3-0-0 Unanimous.

C. Hearing-105 CMR 15.216-Aggregate determination of flows and nitrogen loading, to consider the use of an aggregate facility plan for the purpose of meeting 105 CMR 15.214-216 regarding 10,000 sq. ft. of land required per bedroom in a nitrogen sensitive area located at **5 Quail Nest Run**; Map 73 Parcel F1-117; 10,300 sq. ft.; credit land at 297 Depot Street; easement "A", 19,766 sq. ft. for 3 Guys LLC, plan prepared by Bass River Engineering.

Chairman Howell opened the hearing. Tom McLellan from Bass River Engineering was present. Roy Simmons was present in the audience. This lot is located in a water recharge area (zone II) and does not have the required square footage to construct a three bedroom dwelling. In order for them to meet the 30,000 sq. ft. lot requirement, the applicant is buying development rights from the property located at 297 Depot Street. The existing lot at 5 Quail Nest Run is 10,300 sq. ft. and the purchased land to be applied is for 19,766 sq. ft. Chairman Howell closed the hearing.

Ms. Bayerl asked if after the 3 easement credits are taken would that leave any available land for building. Mr. McLellan said that after the easements are taken there would be approximately 38,000 sq. ft. on land remaining. The future of the remaining land is unknown.

Health Director Champagne noted that this request is for the conceptual approval only. The technical approval will be completed at a later date. Health Director Champagne recommended that the Board favorably approve the nitrogen loading aggregation plan with the following conditions:

1. Corner bounds will be placed on credit land for clarification of the no disturb lines.
2. The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations.

Mr. Boyle moved to accept the recommendation of the Health Director to approve the nitrogen loading aggregation plan. Ms. Bayerl seconded the motion. 3-0-0 Unanimous.

VIII REPORT OF THE HEALTH DIRECTOR (January)

- Projects
 - *Accela Computer Program Development*-Good progress to report. We have reworked a strategy in Community Development with Town Planner taking the lead to present weekly "to do" lists and expectations of measurable results to our consultant. Significant issues with none of the tablets working properly are slowly being corrected. We are attempting to meet March 1 administration goal of public access. Building Department has offered to oversee public kiosk installation and roll out testing for simple input starting with solar panel permits. We hope to join with spring /summer permits such as pools and beaches.
 - *Employee Training & Wellness*- Eight out of eleven finished the "Maintain don't gain" Holiday Challenge from Thanksgiving to Jan 8th. All 8 were within range of 2 pound requirement. Forty employees attended the Jan 25th training' Customer Service Excellence-Reaching Down Deep'. I have received very positive feedback on the topic and speaker choices.
 - *Synthetic Cannabinoids*- as a follow-up to the discussion and vote at the January meeting, staff has prepared a proclamation on the topic for consideration at the Feb mtg. We also intend to meet with the Police Chief to gain further insight into the topic and see if our interests can be better served by working together in the community.

- *Annual Reports*- 2015 report covering all Department statistics prepared for the Town Report; annual report covering pools and spas prepared; annual edition of Health Department Food Program Newsletter prepared and distributed late December 2015.
- *Potassium Iodide Distribution*-Town Nurse Sue Jussell requested a supply to distribute at a recent health fair. Following her successful venture we discussed having a supply at her location considering her outreach programs and weekly walk-in clinics. Training, educational materials and distribution packets were supplied.
- *Budget Review*- first round completed- Department Head, Town Administrator & Town Accountant. TA will be submitting formal budget to BOS early Feb.
- *Department Website*- updated to reflect new information on subsidized tick testing and information on “spice/ cannabinoids”
- *Food Service Program*
 - *Storm Prep*- emergency management materials prepared and distributed to all food permit holders in advance of the potential storm mid-January
 - Red's Pizza is looking to expand into the existing retail space that adjoins the restaurant. They are aware of the seating restriction and are cooperating with us to ensure compliance with the maximum number of seats allowed per the septic system.
 - The prospective new restaurant "The Mad Minnow" has been in to discuss seating plans and kitchen floor plans. They also are aware of the seating restriction on the property and are working towards a compliance plan to bring before the Board.
 - We met with a prospective new business owner who wants to start a business making pies and other baked goods. She is aware that the type of pies she wants to make is not allowed to be made in a residential kitchen and she is looking to lease space out of a commercial kitchen.
 - Frank's Cuccina- information forwarded to Town Counsel for enforcement guidance
- *Complaints/Investigations*
 - *602 Queen Ann Rd*- resolution- ongoing case for several years of extensive trash and filth. Property has foreclosed and the bank has cleaned the property
- *RET's/ Sewage permit review*
 - 2 Parsons Path- full apartment in basement w/out permits; located in Zone II; over bedroom count. Discovered during permit application to reconstruct after insurance event. Return to compliance plan involved removing interior walls and registering a deed restriction.
 - 24 Sou'west- fully finished basement involving several potential bedrooms w/out permits; located in Zone II; over bedroom limit. Discovered during RET report review. Director has viewed property and outlined a return to compliance plan involving interior wall removal and requiring a floor plan and deed restriction.
 - 7 River Bend- referral from Fire Department following minor alteration compliance check. Verified by walk thru- 6 Bedrooms where 5 have been approved. Third floor ‘master bedroom suite concept’ altered into 2 bedrooms. Will be issuing violation notice to owner for return to compliance plan
 - 250 Lothrop Ave- walk thru request to clarify floor plan –number of bedrooms for real estate listing.

IX PERMITS

ESTABLISHMENT	ADDRESS	TYPE	TYPE
FOOD SERVICE:			
Big Rock Oyster	501 Depot Street	Caterer	
Buckies	554 Route 28	<600 sq. ft. (not primary bus)	Seats: 1-30
Commodore Inn/Raspberries	30 Earle Road	Seats: 61-150	
Elder Services of Cape Cod/Meals on Wheels	100 Oak Street	Limited Food Service	

Handkerchief Shoals Inn	888 Route 28	Limited Food Service	
Monomoy Regional School (Elementary)	263 South Street	Institution	
Monomoy Regional School (High School)	75 Oak Street	Institution	
MOTEL			
Commodore Inn LTD	30 Earle Road		
RUBBISH HAULER			
MA Frazier Enterprises Inc.			
Republic Services of Cape Cod			
Waste Management of MA Inc.			
SEPTIC INSTALLER			
Accu Sepcheck			
Barrows Excavating	Harwich		
Bosetti Septic Systems	Harwich		
J. Brown Inc.	Harwich		
Cape Excavating Service	Harwich		
Condon's Excavating	Sandwich		
Robert E. Farrell	Dennisport		
Ellis Brothers	Yarmouth Port		
MCE Dirtworks Inc.	Eastham		
Miranda's Excavating	Harwich		
Torrey Excavation (NEW)			
Wind River Environmental	Walpole		
SEPTAGE HAULER			
Ellis Brothers	Yarmouth Port		
Wind River Environmental	South Dennis		
STABLE			
Donald R. Dvorovy	1639 Orleans Road		
Cathy Karras	105 Round Cove Road		
Duane & Elenah Reynolds	1392 Halls Path One		

Mr. Boyle moved to approve the list of permits for renewal dated 2/9/2016. Ms. Bayerl seconded the motion. 3-0-0 Unanimous

X ADJOURN- The meeting adjourned at 8:10 p.m.

Mr. Boyle moved to adjourn. Ms. Bayerl seconded the motion. 3-0-0 Unanimous

Submittals of the meeting are part of the permanent record.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, March 8, 2016 at 6:30 p.m. in the small hearing room.